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9
10 UNITED STATES BANKRUPTCY COURT
11 DISTRICT OF NEVADA

12 In re:

13 DHILLON GROUP LLC
14 d/b/a HOLIDAY INN EXPRESS.,

15 Debtor.

Case No.: 11-53706
Chapter 11

**OPPOSITION TO UNITED CENTRAL
BANK'S MOTION FOR DISMISSAL FOR
IMPROPER VENUE OR
ALTERNATIVELY FOR CHANGE OF
VENUE**

16
17 Date: January 3, 2011
Time: 2:00 p.m.

18
19 The above-captioned debtor and debtor in possession (collectively, the "Debtor")
20 respectfully submit its Opposition to United Central Bank's Motion for Dismissal for Improper
21 Venue on Alternatively for Change of Venue.

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1 This Opposition is made and based upon following Memorandum of Points and Authorities,
2 the Declaration of Jagmohan Dhillon, the record in these cases, including the pleadings and
3 documents filed on behalf of the parties, the arguments and representations of counsel, and any oral
4 or documentary evidence at or prior to the time of the hearing.

5
6 Dated this 20th day of December 2011.

7
8 KUNG AND BROWN

9 By: /s/ Brandy Brown

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21 *[Proposed Reorganization Counsel for*
22 *Dhillon Group, LLC.]*

23 I.

24 INTRODUCTION

25 This Honorable Court is very familiar with Jagmohan Dhillon as he is the managing member
26 of Elko Gold Mine that has successfully reorganized in Nevada and Dhillon Properties that is in the
27 final stages of a successful reorganization in Nevada. Dhillon Group, LLC, unlike Elko Gold Mine
28 and Dhillon Properties is not a Nevada corporation. However, like the other two hotels the nerve
center of Dhillon Group, LLC is in Elko, Nevada and therefore venue is proper in Nevada. Dhillon
Group, LLC ("the Company"), had a major flood on or about February of 2011. This resulted in the
Company closing its doors and laying off all of its employees. Accordingly, the Company no longer
has any employees in Texas. The flood resulted in the nerve center of the Company and the

1 managing member Jagmohan Dhillon being relocated to Elko, Nevada. With the hotel in ruins, the
2 insurance company failing to remit payment, and the bank refusing to work with the Company, the
3 Company and the managing member (who already had two active bankruptcies in Nevada) had to
4 retreat to a place where it could start fixing the problems. Accordingly, as a child runs to his mother
5 when things are bad the Company ran to Elko, Nevada. Since the nerve center of the Company has
6 been Elko, Nevada since approximately May 2011 more than 180 days venue is proper in Nevada
7 and Debtor respectfully requests that Secured Creditor's Motion be denied forthwith.
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10 **II.**

11 **STATEMENT OF RELEVANT FACTS**

12 The Debtor, Dhillon Group, LLC, a Texas Limited Liability Company, purchased the
13 property located at 2909 Michelle Dr., Sherman Texas, in August of 2007, for use in connection
14 with its Holiday Inn Express Franchise Agreement. Thereafter, in May of 2008, Debtor refinanced
15 the Property for \$6,497,000.00 through United Central Bank. Pursuant to the terms of the loan,
16 Debtor was to remit \$50,371.00 per month for three years with a final balloon payment due on May
17 20, 2011. Debtor, though struggling due to the economic downturn, was able to make its payments
18 to Secured Creditor until March 2011. Unfortunately, on or about February 4, 2011, the hotel was
19 flooded by its sprinkler system. The hotel could not be utilized because of the damage. The
20 insurance company refused to remit payment for months which resulted in the Company having to
21 lay off its, closing its doors, and forcing it to move its principle place of business to Elko, Nevada.
22 The Company chose Elko, Nevada because its managing member has two major opened executive
23 offices and hotel and the support system that he had to turn those two hotels around in Nevada. See
24 Affidavit of Jagmohan Dhillon.
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III.

MEMORANDUM OF POINTS AND AUTHORITIES

VENUE IS PROPER UNDER SECTION 1408 OF THE BANKRUPTCY CODE

Section 1408 of the Bankruptcy Code provides:

Except as provided in section 1410 of this title, a case under title 11 may be commenced in the district court for the district—

- (1) in which the domicile, residence, principal place of business in the United States, or principal assets in the United States, of the person or entity that is the subject of such case have been located for the one hundred and eighty days immediately preceding such commencement, or for a longer portion of such one-hundred-and-eighty-day period than the domicile, residence, or principal place of business, in the United States, or principal assets in the United States, of such person were located in any other district; or
- (2) in which there is pending a case under title 11 concerning such person's affiliate, general partner, or partnership.

A. THE COMPANY'S PRICIPAL PLACE OF BUSINESS IS I NEVADA

The Supreme Court has held that, "principal place of business" is best read as referring to the place where a corporation's officers direct, control, and coordinate the corporation's activities. It is the place that Courts of Appeals have called the corporation's "nerve center." And in practice it should normally be the place where the corporation maintains its headquarters—provided that the headquarters is the actual center of direction, control, and coordination, *i.e.*, the "nerve center," and not simply an office where the corporation holds its board meetings (for example, attended by directors and officers who have traveled there for the occasion). Hertz v Corp v. Friend, 130 U.Ct. 1181 (2010). Here, the Company's managing member is located in Elko, Nevada. The Company's activities are coordinated out of Elko, Nevada. The Company's books are located in Elko, Nevada. The GM who turned around the Holiday Inn in Elko, Nevada around is in Elko, Nevada. If forced to proceed in Texas, Debtor will be attempting to restructure out of a moldy, wet, dark, vacant, hotel with no employees in Texas. Though Texas is where the Company's hotel is located it is not where

1 it can function and it is not where is can successfully reorganize. Furthermore, the other owners,
2 Harminder Dhillon is in India and Dr. Joginder Soni is in California. Nevada is located between
3 California and Texas. Accordingly, Debtor respectfully requests that is be able to maintain venue in
4 Nevada and successfully reorganize.
5

6 **B. SECURED CREDITOR FAILS TO MEET ITS BURDEN.**

7 There is a presumption that Debtor's choice of forum is proper. In re Mid Atlantic Retail
8 group Inc., 2008 WL 612287. Furthermore, to change venue Secured Creditor must demonstrate
9 by the preponderance of the evidence that venue is not Proper. Id. The only items Plaintiff has
10 produced is 1) the Texas franchise agreement that states Jagmohan Dhillon and Harminder Dhillon
11 are residing in the hotel (a hotel that has no power, is flooded, and vacant) and Joginder Soni as
12 living in California; 2) Regulation of Dhillon Group LLC from 2007 that states on page 1 that the
13 principal office of the company in the State of Texas shall be located at 2909 Michelle Drive, City
14 of Sherman, County of Grayson, State of Texas 75092. The Company may have such other offices,
15 either within or without the State of Texas, as the Members may designate or as the business of the
16 Company may from time to time require and on page 7, "the books and records of the Company
17 shall be kept at the principal office of the company or as such other places, within or without the
18 State of Taxes, as the Member shall from time to tie determine." Accordingly, the regulations of the
19 Company permitted the Company to move its principal place of business to Nevada. Furthermore, it
20 demonstrates that the principle place of business was in Sherman, Texas, where is can no longer
21 reside because it is flooded.; and 3) Elko Gold Mine's confirmed plan that demonstrates that Elko
22 Gold Mine was functioning and it would make sense for Jagmohan Dhillon to set up the Company's
23 principal place of business in Elko, Nevada. Accordingly, Debtor respectfully requests that Secured
24 Creditor's Motion be denied forthwith.
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IV.

CONCLUSION

Based on the foregoing Debtor submits that 1) Venue is Proper because the Company's principle place of business is in Nevada and 2) Secured Creditor has failed to meet its burden to move venue. Accordingly, Debtor respectfully requests that Secured Creditor's Motion be denied forthwith.

Dated this 20th day of December 2011.

KUNG AND BROWN

By: /s/ Brandy Brown

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7 *[Proposed] Attorneys for Debtor*

8 UNITED STATES BANKRUPTCY COURT

9 DISTRICT OF NEVADA

10 In re:

11 DHILLON GROUP LLC
12 d/b/a HOLIDAY INN EXPRESS

13 Debtor.

Case No. 11-53706
Chapter 11

14 **DECLARATION OF JAGMOHAN
DHILLON IN SUPPORT OF DEBTOR'S
OPPOSITION TO SECURED
CREDITOR'S MOTION FOR
15 DISMISSAL FOR IMPROPER VENUE.**

16 Hearing Date: January 3, 2012
Hearing Time: 2:00 pm

17 I, Jagmohan Dhillon, hereby declare as follows:

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19 1. I am over the age of 18, mentally competent, have personal knowledge of the facts in
20 this matter, except where noted upon information and belief, and if called upon to testify, could and
21 would testify.

22 2. I am a managing member of Dhillon Group, LLC, a Texas Limited Liability
23 Company. I am the member in charge of overseeing and managing the Debtor's operations.

24 3. I make this declaration in support of Debtor's Opposition to Secured Creditor's
25 Motion for Dismissal for Improper Venue.

26 4. I am the managing member of Elko Gold Mine, that has successfully reorganized in
27 Nevada and Dhillon Properties that is in the final stages of a successful reorganization in Nevada.
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1 5. Dhillon Group, LLC, unlike Elko Gold Mine and Dhillon Properties is not a Nevada
2 corporation. However, like the other two hotels the nerve center of Dhillon Group, LLC is in Elko,
3 Nevada and therefore venue is proper in Nevada.

4 6. Dhillon Group, LLC ("the Company"), had a major flood on or about February of
5 2011. This resulted in the Company closing its doors and laying off all of its employees.
6 Accordingly, the Company no longer had a work force in Texas.

7 7. The flood resulted in the nerve center of the Company and the managing member
8 Jagmohan Dhillon being relocated to Elko, Nevada. With the hotel in ruins, the insurance company
9 failing to remit payment, and the bank refusing to work with the Company, the Company and I had
10 to retreat to a place where I could start fixing the problems.

11 8. Since the nerve center of the Company has been Elko, Nevada since approximately
12 May 2011 more than 180 days venue is proper in Nevada and Debtor respectfully requests that
13 Secured Creditor's Motion be denied forthwith.

14 9. Dhillon Group, LLC, a Texas Limited Liability Company, purchased the property
15 located at 2909 Michelle Dr., Sherman Texas, in August of 2007, for use in connection with its
16 Holiday Inn Express Franchise Agreement.

17 10. Thereafter, in May of 2008, Debtor refinanced the Property for \$6,497,000.00
18 through United Central Bank. Pursuant to the terms of the loan, Debtor was to remit \$50,371.00
19 per month for three years with a final balloon payment due on May 20, 2011. Debtor, though
20 struggling due to the economic downturn, was able to make its payments to Secured Creditor until
21 March 2011. Unfortunately, on or about February 4, 2011, the hotel was flooded by its sprinkler
22 system. The hotel could not be utilized because of the damage.

23 11. The insurance company refused to remit payment for months which resulted in the
24 Company having to lay off its employees, closing its doors, and forcing it to move its principle place
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1 of business to Elko, Nevada. The Company chose Elko, Nevada because I already had operations in
2 Nevada (Elko Gold Mine and Dhillon Properties) and the support system that I had to turn those two
3 hotels around was in Nevada.

4 12. I am located in Elko, Nevada.

5 13. The Company's activities are coordinated out of Elko, Nevada.

6 14. The Company's books are located in Elko, Nevada.

7 15. The GM who turned around the Best Western and Holiday Inn in Elko, Nevada
8 around is in Elko, Nevada.

9 16. If forced to proceed in Texas, the Company will be attempting to restructure out of a
10 moldy, wet, dark, vacant, hotel with no employees in Texas.

11 17. Though Texas is where the Company's hotel is located it is not where it can function
12 and it is not where is can successfully reorganize.

13 18. Furthermore, the other owners, Harminder Dhillon is in India and Dr. Joginder Soni
14 is in California. Nevada is located between California and Texas.

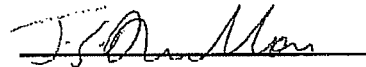
15 19. Accordingly, Debtor respectfully requests that is be able to maintain venue in Nevada
16 and successfully reorganize.

17 20. A true and correct copy of the Regulations of Dhillon Group LLC from 2007 are
18 attached hereto as Exhibit "1". The regulations allow Debtor's books to be maintained in Nevada
19 and to have its principle place of business in Nevada.

20 21. Accordingly, the Company respectfully requests that Secured Creditor's Motion be
21 denied forthwith and that the Company be permitted to restructure in the state of Nevada.
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1 I declare under penalty of perjury of the United States of America that the foregoing is true
2 and correct.
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6 Dated this 20th day of December 2011.
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11 Jahmohan Dhillon
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